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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,172	08/31/2004	Kenichi Nakatsu	P25834	6690

7055 7590 04/19/2007  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER
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REYNOLDS, STEVEN ALAN

ART UNIT	PAPER NUMBER
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3728

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/19/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/19/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

# Office Action Summary

Application No.

10/505,172

Applicant(s)

NAKATSU ET AL.

Examiner

Steven Reynolds

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-14 and 16-27 is/are rejected.
- 7) ☒ Claim(s) 15 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/3/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "comprise", "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

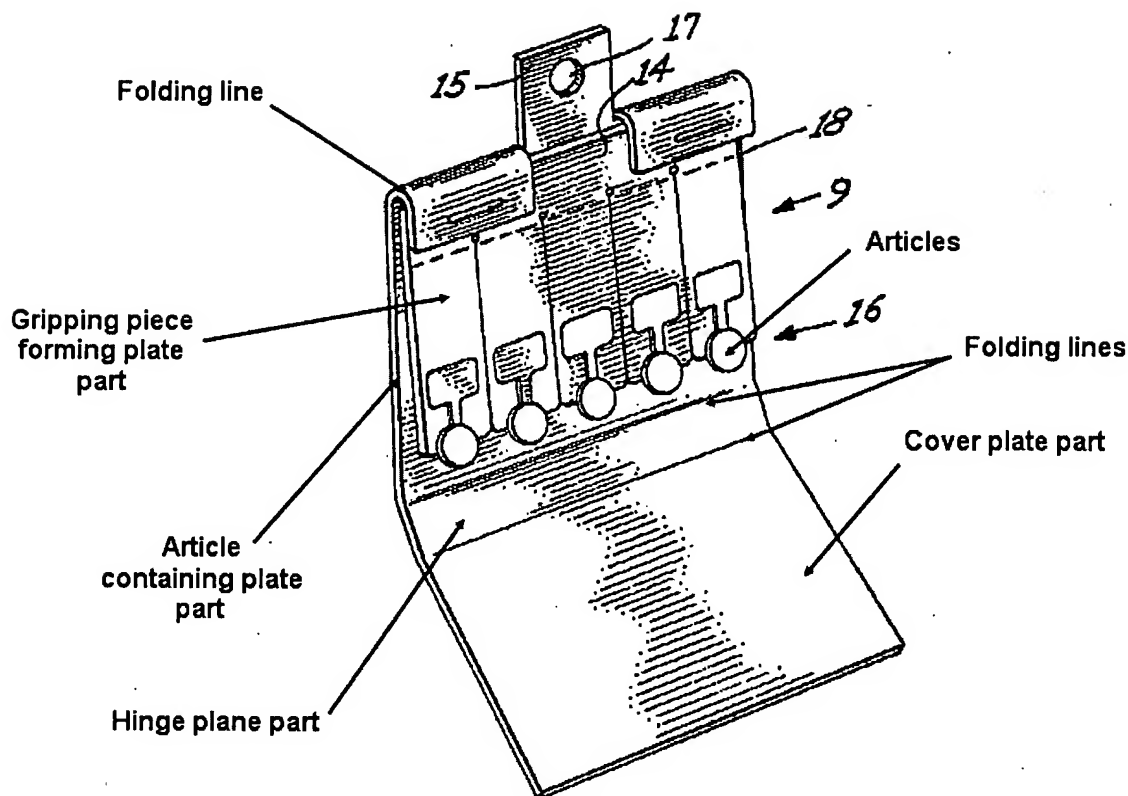
3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-7, 9, 10, 13, 14, 16-20, 22, 23, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerny et al. (US 4,860,890) in view of Malpass (US 4,693,371). Cerny et al. discloses an article packaging body being formed from a sheet of hard material comprising an article containing plate part (See Figure below) containing articles; a cover plate part (See Figure below) being connected with the article containing plate part; and a gripping piece forming plate part (See Figure below) being formed by extending from the article containing plate part via a folding line, wherein a plurality of gripping pieces is formed in the gripping piece forming plate part so as to be separable individually and to hold an article at the tip end of each of the gripping pieces, the gripping piece forming plate part is folded onto the article containing plate part, and the cover plate part is openably closed such that the gripping piece forming plate part is sandwiched between the cover plate part and the article containing plate part. Cerny et al. discloses the claimed invention except for the recesses.

However, Malpass teaches an article packaging body comprising an article containing plate (bottom portion) having a plurality of containing recesses (15) for the purpose of allowing the plate (41) to project downwardly into the recesses. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the article containing plate of Cerny et al. with recesses as taught by Malpass in order to allow the articles to sit in the recesses forming a more compact arrangement.



Regarding claim 2, Cerny et al. as modified above discloses the claimed invention except for the cover plate part having a plurality of containing recesses and a gripping piece forming plate part extending from it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cover plate part with a gripping piece forming plate part extending from it and containing recesses, as discloses on the article containing plate part, in order to hold more articles, since such a modification would amount to a mere duplication of parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claims 3-5 and 16-18, as described above, the modified device of Cerny et al. discloses the claimed invention except for the specifics material the sheet is made from. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sheet from any material including a synthetic resin or biodegradable plastic in order to have the desired hardness. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Further regarding claims 3 and 16, as described above, the modified device of Cerny et al. discloses the claimed invention except for the specifics of how the sheet is formed. The determination of patentability in a product-by-process claim is based on the product itself, even though the claim may be limited and defined by the process. That is, the product in such a claim is unpatentable if it is the same as or obvious from the product of the prior art, even if the prior product was made by a different process. *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985).

Regarding claims 6 and 19, the modified device of Cerny et al. discloses the article containing plate part is connected with the cover plate part via a hinge plane part and folded to the side of the cover plate part along folding lines of said hinge plane part (See Figure above).

Regarding claims 7 and 20, the modified device of Cerny et al. discloses the hinge plane part is formed into a required width, by being connected with the article containing plate part by a folding line and with the cover plate part by a folding line.

Official Notice is taken that it is well known in the art to substitute a folding line as disclosed by Cerny et al. with perforated lines in order to allow for easier folding. It is also well known to space apart each perforation a desired distance to make it easier or harder to bend at the perforated line.

Regarding claims 9 and 22, as described above, the modified device of Cerny et al. discloses the claimed invention except for the specifics of the gripping pieces. Official Notice is taken that it is well known to provide reinforcement to a structure to make it more rigid.

Regarding claims 10 and 23, as described above, the modified device of Cerny et al. discloses the claimed invention except for the specifics of the shape of the separation lines between the gripping pieces. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

Regarding claims 13 and 26, the modified device of Cerny et al. discloses an aperture for hanging (17) is formed in one edge side such that the length from the aperture to the other edge is within a range of lengths permitted for the hanging display.

Regarding claims 14 and 27, the modified device of Cerny et al. discloses the article is a button-type cell.

5. Claims 8, 11, 12, 21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerny et al. (US 4,860,890) in view of Malpass (US 4,693,371) as

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applied to claim 1 above, and further in view of Casanova et al. (US 6,364,115). As described above, the modified device of Cerny et al. discloses the claimed invention except for the convex and concave portions and the engagement structure.

However, Casanova et al. teaches an article packaging body comprising an article containing plate part (36) having a circular projection (48) and a cover plate part (34) having an approximately rectangular recess (58) for the purpose of snap fitting together the package; the article containing plate part and cover plate part provided with reinforcing concave (44) and convex (54) portions for the purpose of forming an interference fit. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the modified device of Cerny et al. with the circular projection/rectangular recess and the concave/convex portions as taught by Casanova et al. in order to better secure the cover plate part to the article containing plate part and better protect the contents of the package.

***Allowable Subject Matter***

6. Claims 15 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Reynolds whose telephone number is (571)272-9959. The examiner can normally be reached on Monday-Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SR  
4/11/07

  
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